

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARL RAY SMITH, JR.,

Petitioner,

No. CIV S-02-2666 WBS GGH P

vs.

TOM L. CAREY, et al.,

Respondents.

ORDER

On September 11, 2008, petitioner filed an application for leave to file a late request for a certificate of appealability. On April 13, 2007, the Ninth Circuit Court of Appeals affirmed the judgment of this court. Therefore, issuance of a certificate of appealability at this time is inappropriate.

Accordingly, IT IS HEREBY ORDERED that petitioner's September 11, 2008, application for leave to file a late request for a certificate of appealability is denied.

DATED: September 24, 2008



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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